

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**THE FAMILY SUPPORT DIVISION -  
CHILD SUPPORT ENFORCEMENT**

**JOEI NORTH,**

**v.**

**ANDREW HOWARD NORTH**

**RESPONDENT,**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD76997

DATE: October 14, 2014

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Appeal From:

Clay County Circuit Court  
The Honorable K. Elizabeth Davis, Judge

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Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, Joseph M. Ellis, Judge and Thomas H. Newton,  
Judge

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Attorneys:

Shelly L. Hinson, Independence, MO, for respondent Family Support Division.

William J. Hudnall, Kansas City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

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No. WD76997

Clay County

Before Division Three: Gary D. Witt, Presiding Judge, Joseph M. Ellis, Judge and Thomas H. Newton, Judge

Andrew Howard North ("Father") challenges a judgment modifying his child support obligations on three grounds. In his first two points, Father argues that the trial court erred in classifying him as the "movant" for purposes of line 2c of the Form 14. In his third point, Father argues that the judgment grants relief that was not requested by the pleading of Respondent Joei North ("Mother").

**AFFIRMED IN PART AND REVERSED IN PART**

**Division Three holds:**

(1) Father affirmatively took the position of "movant" in the trial court proceeding and obtained benefits from that position. He cannot on appeal take a contrary position that he was not the "movant" in order to obtain benefits from the contrary position. Father is judicially estopped from raising his first two points on appeal.

(2) Mother filed no pleading requesting the affirmative relief of an increase in child support. All of the evidence needed to support Mother's contention that she was entitled to an increase in child support also was relevant to Father's contention that he was entitled to a decrease in child support. Father did not expressly or impliedly consent to try the issue of whether Mother's child support should be increased. The portion of the judgment increasing Father's child support obligation is reversed and the previous judgment establishing the amount of the child support remains in effect.

Opinion by Gary D. Witt, Judge

October 14, 2014

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